SUPREME COURT, U. S.
FILED
NOV 6

IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1974

NO. 74-385

In the Matter of
YORK INTERNATIONAL BUILDING, INC.,

Debtor-Appellant,

and

DR. RICHARD YOU,

Stockholder-Appellant,

vs.

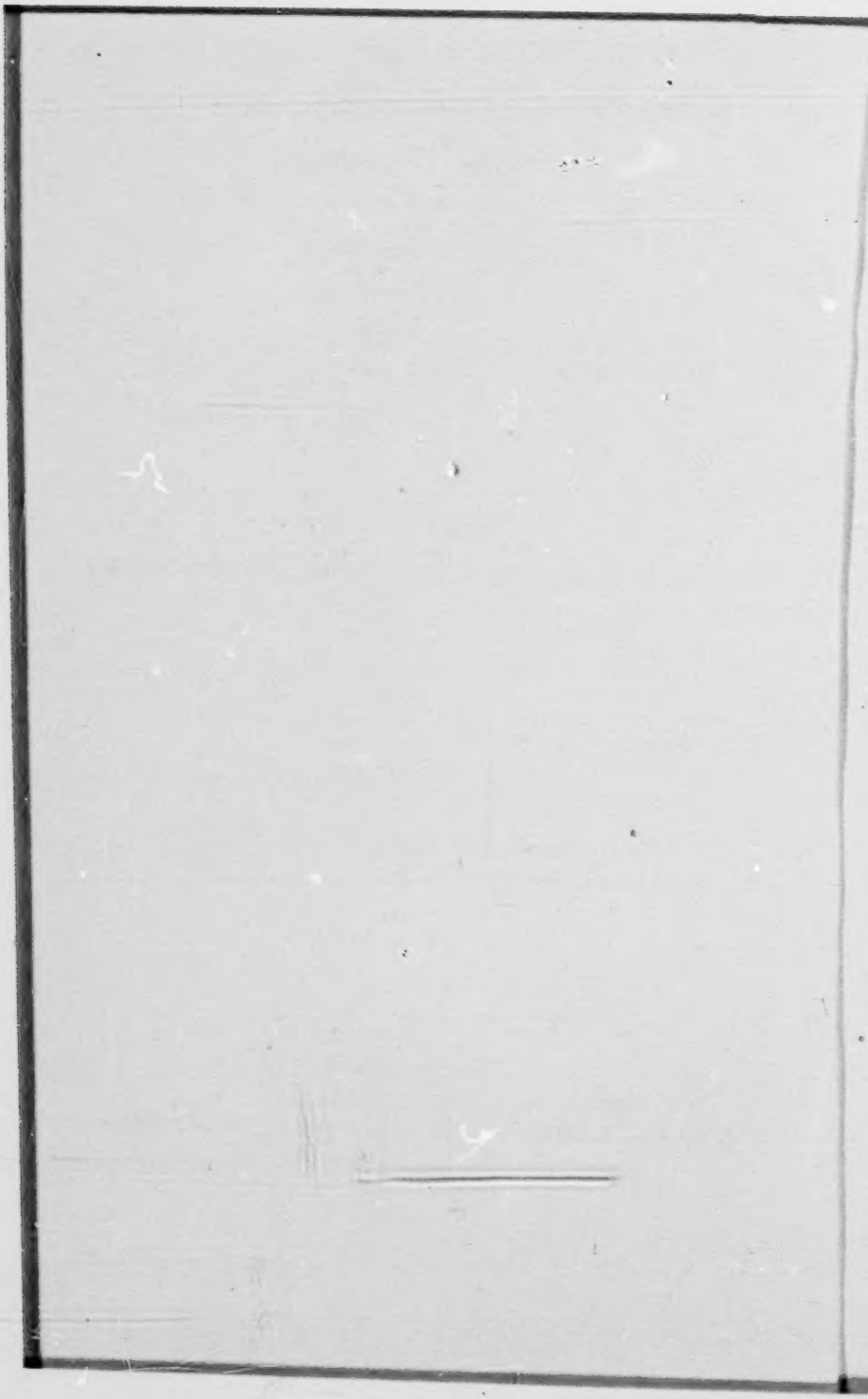
AARON M. CHANEY,

Trustee-Appellee.

APPELLANTS' REPLY TO BRIEF FOR RESPONDENT IN OPPOSITION

HELEN B. RYAN
1136 Union Mall
Suite 207
Honolulu, Hawaii 96813
Attorney for Appellants

Of Counsel:
RYAN & RYAN



IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1974

NO. 74-385

In the Matter of
YORK INTERNATIONAL BUILDING, INC.,

Debtor-Appellant,

and

DR. RICHARD YOU,

Stockholder-Appellant,

vs.

AARON M. CHANEY,

Trustee-Appellee.

APPELLANTS' REPLY TO BRIEF FOR RESPONDENT IN OPPOSITION

Appellee's brief in opposition emphasizes the necessity of review of this Court, particularly to make clear, certain, and uniform the interpretation and the proper application of 11 U.S.C., Section 516(3).

1. Appellants contend that this Court has already spoken in Fidelity Assurance Association v. Sims, 318 U.S. 608 (1943). This case is not cited by the Appellee; rather it is ignored, just as it has been ignored by the Ninth Circuit.

2. Appellant has shown how the Ninth Circuit has applied to the instant case the rulings announced by it in the reported cases of In Re Wonderbowl, Inc., 424 F.2d 178, (9th Cir., 1970), and In the Matter of Equity Funding Corp. of America, 492 F.2d 793 (9th Cir., 1974). Appellee cites neither of these cases, yet in both cases the Ninth Circuit admits there is a conflict between the Circuits.

3. The argument of the Appellee for denial, based upon the effect of inflation, defeats itself. If the sale is set aside, the creditors and the stockholders will reap the benefit of the "double digit inflation experienced recently," and will be able to reorganize or sell at a price which will pay to all the full value of their holdings.

4. The inclusion of the Appellee's briefs,

originally filed in the Ninth Circuit, is not to the point and they are useful, if at all, to show the "shotgun" approach to the law employed by the Appellee in the District as well as the Ninth Circuit Court.

5. The questions presented are not moot. The purchasers are not bona fide without notice, but actually personally participated in the sale, knowing that the owner of the asset was a corporation seeking reorganization under Chapter X, and that the sale was made in the reorganization proceeding. It was the purchasers who "expedited" the acceptance of their offer on the same day, and within an hour of its first distribution in the courtroom. In fact, Trustee-Appellee, at the court's direction, told the court:

> "I have discussed this with both Mr. and Mrs. Lim, Your Honor, and it was their intent in submitting the offer that the decision would be made today and it would not be one that would hang fire. If the Court would rule that the sale be made to Mr. and Mrs. Lim today, fine, they will proceed and close the transaction within 60-65 days. If on the other hand the Court were to decide to defer this matter for 30 days, they would

withdraw their offer therefor." (Tr. 2/21/73, p. 193.)

A writ of certiorari should be granted if corporate reorganizations under Chapter X are to have meaningful statutory and constitutional safeguards.

DATED: Honolulu, Hawaii, November 4, 1974.

Respectfully submitted:

Helen B. Ryan

HELEN B. RYAN
1136 Union Mall
Suite 207
Honolulu, Hawaii 96813

Attorney for Appellants